

## Railroad Retirement Board

## § 345.301

by virtue of such acquisition, the individual employer record for such employer shall consider the acquired assets as of such person's employer effective date, subject to any agreement between the respective parties and the provisions of paragraph (b) of this section.

(b) There shall be no transfer of the employer record where an employer abandons a line of track in accordance with the provisions of the Interstate Commerce Act and the applicable regulations thereunder, and a new entity, found by the Board to be an "employer" under part 301 of this chapter, is formed to operate or continue service over such line; the Board will assign to such entity a new-employer contribution rate in accordance with section 8(a)(1)(D) of the RUIA and § 345.304 of this part.

[61 FR 20072, May 3, 1996, as amended at 70 FR 42489, July 25, 2005]

### § 345.205 Reincorporation.

The cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of an employer that reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification will attach to the reincorporated or altered identity.

### § 345.206 Abandonment.

If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subpart without retroactive adjustment.

### § 345.207 Defunct employer.

If the Board determines that an employer has permanently ceased to pay compensation with respect to which contributions are payable under this part, the Board will, on the date of such determination, transfer the employer's net cumulative contribution balance as a subtraction from, and the cumulative benefit balance as an addition to, the system unallocated charge balance and will cancel all other accumulations of the employer. The Board's determination that an employer is

defunct will be based on evidence indicating that the employer has ceased all operations as an employer and has terminated its status as an employer. In making its determination, the Board will consider evidence as described in part 202 of this chapter with respect to termination of employer status under the Railroad Retirement Act. Mere failure of an employer to pay contributions due under this part does not indicate that such employer is defunct.

### § 345.208 System records.

Effective January 1, 1990, the Board will establish and maintain records necessary to determine pooled charges, pooled credits, and unallocated charges for the experience rating system and will publish a notice with respect thereto no later than October 15 of each year. See § 345.302 of this part for the definition of these terms.

## Subpart D—Contribution Rates

### § 345.301 Introduction.

(a) *General.* Effective January 1, 1993, each employer that is subject to this part will have an experience-rated rate of contribution computed as set forth in § 345.303 of this part. A transitional rate of contribution applies to each such employer for 1991 and 1992, in accordance with section 8(a)(1)(B) of the RUIA. An employer that first becomes subject to section 8 of the RUIA after December 31, 1989 will have a "new-employer" contribution rate as computed in § 345.304 of this part. An employer's experience-rated contribution rate will be not less than 0.65 percent nor more than 12.5 percent. Not later than October 15 of each year, the Board will notify each employer of its experience-rated contribution rate for the following calendar year.

(b) *Components of an experience-rated contribution rate.* An employer's experience-rated contribution rate for each calendar year beginning with 1993 will be based upon the following charges:

(1) An allocated charge based upon the amount of benefits paid to employees of such employer; this charge is explained in subpart E of this part;

(2) An unallocated charge based upon a proportionate share of the system

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unallocated charge balance, the computation of which is explained in § 345.302(p) of this part;

(3) A pooled charge, also referred to as risk-sharing, to cover the cost of benefit payments that are chargeable to a base year employer but are not captured by the contribution rate assigned to such employer because it is paying contributions at the maximum rate of contribution; the formula for computing the pooled charge is set forth in § 345.302(j) of this part;

(4) A surcharge of 1.5, 2.5, or 3.5 percent, or a pooled credit, depending on the balance to the credit of the Account as of June 30 of a given year; and

(5) An addition of 0.65 percent to the rate of contribution to cover the expenses incurred by the Board in administering the RUIA.

(c) *Maximum rate of contribution.* Notwithstanding any provision of this part, an employer's contribution rate for any calendar year shall be limited to 12 percent, except when a surcharge of 3.5 percent is in effect with respect to that calendar year. If a 3.5 percent surcharge is in effect, the maximum contribution limit with respect to that calendar year is 12.5 percent. The surcharge rate for a calendar year will be 3.5 percent when the balance to the credit of the Account is less than zero. The Board will compute the surcharge rate in accordance with § 345.302(n) of this part.

### § 345.302 Definition of terms and phrases used in experience-rating.

(a) *Account.* The Railroad Unemployment Insurance Account established by section 10 of the Railroad Unemployment Insurance Act (RUIA) and maintained by the Secretary of the Treasury in the unemployment trust fund established pursuant to section 904 of the Social Security Act. Benefits paid under the RUIA for an employee's days of unemployment or days of sickness are paid from this Account.

(b) *Benefit ratio.* This ratio is computed for each employer as of any given June 30 by dividing all benefits charged to the employer under subpart E of this part during the 12 calendar quarters ending on such June 30 by the employer's three-year compensation base as of such June 30, as computed

under paragraph (q) of this section. The ratio is computed to four decimal places.

(c) *Benefits.* Benefits are money payments paid or payable by the Board to a qualified employee with respect to his or her days of unemployment or days of sickness, as provided by the RUIA.

(d) *Compensation.* This term has the meaning given in part 302 of this chapter.

(e) *Contributions.* Contributions are the money payments paid or payable by an employer subject to this part with respect to the compensation paid or payable to employees of such employer.

(f) *Cumulative benefit balance.* An employer's cumulative benefit balance as of any given June 30 is determined by adding:

(1) The net amount of the benefits charged to the employer under subpart E on or after January 1, 1990, and

(2) The cumulative amount of the employer's unallocated charges on and after January 1, 1990, as computed under paragraph (r) of this section.

(g) *Fund.* The Railroad Unemployment Insurance Administration Fund established by section 11 of the RUIA and maintained by the Secretary of the Treasury in the unemployment trust fund established pursuant to section 904 of the Social Security Act. The costs incurred by the Board in administering the RUIA are paid from the Fund.

(h) *Net cumulative contribution balance.* The Board will determine an employer's net cumulative contribution balance as of any given June 30, as follows:

(1) *Step 1.* Compute the sum of all contributions paid by the employer pursuant to this part after December 31, 1989; add that portion of the tax, if any, imposed under 26 U.S.C. 3321(a) that is attributable to the surtax rate under section 7106(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 (Pub. L. 100-647) and any repayment taxes paid by the employer pursuant to 26 U.S.C. 3321(a) after the outstanding balance of loans made under section 10(d) of the RUIA before October 1, 1985, plus interest, has been paid;